THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.17306 OF 1995

Date: 26th September 2006

Between:
Dasari Meera Saheb, son of Gangayya,
Hindu, aged 55 years, Ex-cashier,
Resident of Dulla, Kadiam Mandal,
E.G. District.

.... Petitioner

And

1. The Assistant Director of Handlooms and
   Textiles, Kakinada, E.G. District and 3 others.

.... Respondents.

* * *

ORDER:

This writ petition is filed being aggrieved by the Award dated 24th April 1995 made in C.T.A.No.1 of 1990 on the file of the learned Principal District Munsif at Rajahmundry, wherein proceedings under Section 60(1) of the A.P. Cooperative Societies Act (for short 'the Act') dated 02.4.1990 issued by the Assistant Director, Handlooms and Textiles, Kakinada, was confirmed.

2. It appears that the petitioner worked as Cashier in the 3rd respondent society. While so, an enquiry under Section 51 of the Act was ordered by the first respondent-Assistant Director, Handlooms and Textiles, Kakinada. On the basis of enquiry report

under Section 51 of the Act, proceedings under Section 60 of the Act were taken up i.e., surcharge proceedings before the first respondent. The first respondent confirmed the claim of the third respondent by an order-dated 02.4.1990. Aggrieved by the same, the petitioner carried the matter in appeal being C.T.A.No.1 of 1990 before the Principal District Munsif at Rajahmundry. The appellate Authority confirmed the orders passed by the first respondent. Aggrieved by the same, the present writ petition is filed.

3. There is no necessity of going into all the details. Learned counsel for the petitioner strenuously contended that even in the order passed by the primary authority it is noticed that though an opportunity was provided to the petitioner, he did not avail the same, and therefore, surcharge order was passed without hearing the petitioner. When the matter was carried in appeal, the appellate authority also held that the petitioner did not utilize the opportunity given to him properly in this regard. It may be necessary to notice para 4 of the findings of the primary authority, which reads as under.

> " An opportunity was also provided by show cause notice to file objection, if any, for the said proposed action. Sri Dasari Meera Saheb, Ex-cashier, delinquent, in this case has filed a reply to the show cause notice. The delinquent, Sri Dasari Meera Saheb has also sent a petition dt.17.2.90 through registered post requesting the court to give him an opportunity to cross-examine the persons and also to give him an opportunity in getting his evidence. The delinquent has been given ten days time to appear before the Court. The delinquent did not

> appear before the court on 27.2.90, further more, the petition filed on 17.2.90 is of vague, though he was given an opportunity of ten days to let in evidence on his side he has not appeared before the court. Hence, the following orders are passed after going through the material on record and statement filed on 19.4.89."

In view of the above, even before the date was fixed, petitioner addressed a letter to the primary authority seeking adjournment. That was refused on the ground that the petition was vague. I am of the opinion that the order passed by the primary authority as confirmed by the appellate authority suffers from gross violation of principles of natural justice, therefore, they are liable to be set aside.

4. Accordingly the writ petition is allowed setting aside the orders of the primary authority and the appellate authority and the matter is remanded to the primary authority for conducting a detailed enquiry into the matter after putting the petitioner on notice and hearing him personally and to pass appropriate orders. No costs.

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C.V.RAMULU, J.

Date: 26th September 2006.
BSB